REMARKS

A total of 121 claims remain in the present application. The following arguments are presented in response to the Office Action mailed May 18, 2004, wherefore reconsideration of this application is requested.

Referring now to the text of the Office Action:

a) claims 1-5, 8, 10, 23, 26, 41-46, 49, 51, 67, 82-87, 90 and 92 stand rejected under 35 U.S.C. § 102(b), as being unpatentable over the teaching of United States Patent No. 6,522,667 (Oda et al.); and

b) claims 6-7, 9, 11-22, 24-25, 27-40, 47-48, 50, 52-66, 68-81, 88-89, 91 and 93-121 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As an initial matter, applicant appreciates the Examiner's indication of allowable subject matter in claims 6-7, 9, 11-22, 24-25, 27-40, 47-48, 50, 52-66, 68-81, 88-89, 91 and 93-121. The Examiners rejection of claims 1-5, 8, 10, 23, 26, 41-46, 49, 51, 67, 82-87, 90 and 92 under 35 U.S.C. § 102(b) is believed to be traversed by the above-noted claim amendments, and further in view of the following discussion.

In Applicant's response filed March 17, 2004, Applicant argued that the skilled artisan will immediately recognise that the signal processing operations of the Oda et al system (at both the ingress and egress) necessarily require advance knowledge that the protocol being transported across the IP network is ATM. Furthermore, correct disassembly of IP packets into ATM cells required advance knowledge of whether standard or short ATM cells are to be produced. As such, Oda et al provides a 1-to-1 (in this case ATM<->IP) adaptation service that must, of necessity, be engineered to the customer's requirements. Once set up, the adaptation service of Oda et al will fail of the subscriber changes to a different communications protocol

(e.g. Frame Relay). As such, Oda et al is representative of precisely the prior art over which the present invention seeks to define.

In the Final Action mailed May 18, 2004, the Examiner has asserted that "there is nothing to suggest that the gateway knows the protocol is ATM. Any protocol sent to the gateway having the same number of bytes would be processed accordingly. As long as the number of bytes equal 56 encapsulation proceeds, hence it is protocol independent." With respect, these assertions are unsupportable, either on the basis of the teaching of Oda et al, or common knowledge in the art.

In particular, Oda et al discuss nothing other than ATM cells, and do not teach or suggest extrapolation of their method to other protocols as proposed by the Examiner. The system of Oda et al examines the header of incoming ATM cells to identify cells destined for the same address. When such a cell is identified, its header is stripped from the cell, and the remaining cell payload inserted into an IP packet. At the egress, the IP packet payload is divided into ATM cell payloads, to which a newly generated ATM cell header is added. Thus the Examiner's suggestion that " As long as the number of bytes equal 56 encapsulation proceeds" is incorrect. In order for encapsulation to proceed correctly, the incoming cells must not only have the same size as an ATM cell, they must also be divisible into header and payload portions identically to that of an ATM cell, and the header portion must contain at least address information identical to that of an ATM cell. Thus the incoming cells must either be native ATM, or emulate native ATM close enough that the ingress node "thinks" that they are native ATM. Furthermore, the egress node of Oda et al disassembles IP-packets and outputs ATM cells. The person of ordinary skill in the art will recognise that if a subscriber were to adopt the Examiner's ATM-look-alike protocol, then normal operation of the Oda et al system will convert the subscriber's ATM-look-alike into true ATM, and such a protocol conversion would be expected to produce communications failures.

Even if the teaching of Oda et al is extrapolated to encompass some protocol other than ATM, which extrapolation is not supported by Oda et al, such alternative protocol must still be known and provisioned in advance. Oda et al discard the cell header at the ingress node, and then reconstruct cells at the egress node using a locally generated header. It is axiomatic

that successful communication with this system must necessarily require advance knowledge of what the protocol is, because the cells being generated in the egress node must match those being received by the ingress node. The fact that the protocol must be known and provisioned in advance destroys any alleged "protocol-independence" of the Oda et al. system.

In light of the foregoing, it is respectfully submitted that the presently claimed invention is clearly distinguishable over the teaching of the cited references, taken alone or in any combination. Thus it is believed that the present application is in condition for allowance, and early action in that respect is courteously solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,

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